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马莹 邵亚丽



审查员



申请号: 01802405.X 部门及通知书类型: 9--C 发文日期:

申请人: 松下电器产业株式会社

发明名称: 存储和转发广播服务系统以及接收/存储设备



第一次审查意见通知书

(进入国家阶段的 PCT 申请)

1. ☒ 依申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 审查员对上述发明专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。

2. ☒ 申请人要求以其在:

JP 专利局的申请日 2000 年 6 月 13 日 为优先权日,

JP 专利局的申请日 2001 年 4 月 25 日 为优先权日,

专利局的申请日 为优先权日,

3. ☐ 申请人于____年____月____日提交的修改文件, 不符合专利法实施细则第 51 条的规定。

- ☐ 申请人提交的下列修改文件不符合专利法第 33 条的规定, 因而不能接受:

☐ 国际初步审查报告附件的中文译文。

☐ 依据专利合作条约第 19 条规定所提交的修改文件的中文译文。

☐ 依据专利合作条约第 28 条或 41 条规定所提交的修改文件。

☐

修改不能被接受的具体理由见通知书正文部分。

4. ☒ 审查是针对原始提交的国际申请的中文译文进行的。

- ☐ 审查是针对下述申请文件进行的:

说明书 第____页, 按照原始提交的国际申请文件的中文译文;

第____页, 按照国际初步审查报告附件的中文译文;

第____页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;

第____页, 按照依据专利法实施细则第 51 条规定所提交的修改文件。

权利要求 第____项, 按照原始提交的国际申请文件的中文译文;

第____项, 按照依据专利合作条约第 19 条规定所提交的修改文件的中文译文。

第____项, 按照国际初步审查报告附件的中文译文;

第____项, 按照依据专利合作条约第 28 条或 41 条所提交的修改文件;

第____项, 按照依据专利法实施细则第 51 条规定所提交的修改文件。

附图 第____页, 按照原始提出的国际申请文件的中文译文;

第____页, 按照国际初步审查报告附件的中文译文;

第____页, 按照依据专利合作条约第 28 条或 41 条所提交的修改文件;

第____页, 按照依据专利法实施细则第 51 条规定所提交的修改文件。





中华人民共和国国家知识产权局

5. ☒ 本通知书引用下述对比文献 (其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期 (或抵触申请的申请日)
1	JP 平 9-65288 A	1997.3.7
2	CN 1055095 A	1991.10.2
3	JP 平 11-232727 A	1999.8.27
4		

6. 审查的结论性意见:

☒ 关于说明书:

☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。

☐ 说明书不符合专利法第 26 条第 3 款的规定。

☒ 说明书的撰写不符合专利法实施细则第 18 条的规定。

☒ 关于权利要求书:

☐ 权利要求____不具备专利法第 22 条第 2 款规定的新颖性。

☒ 权利要求 1-3, 7-10, 14, 15 不具备专利法第 22 条第 3 款规定的创造性。

☐ 权利要求____不具备专利法第 22 条第 4 款规定的实用性。

☐ 权利要求____不符合专利法第 26 条第 4 款的规定。

☐ 权利要求____不符合专利法第 31 条第 1 款的规定。

☐ 权利要求____不符合专利法实施细则第 2 条第 1 款关于发明的定义的规定。

☐ 权利要求____不符合专利法实施细则第 13 条第 1 款的规定。

☐ 权利要求____不符合专利法实施细则第 20 条至第 23 条的规定。

☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。

☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。

☐ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

☐

8. 申请人应注意下述事项:

(1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的 肆 个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交给中国专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约, 申请人和/或代理人不得前来中国专利局与审查员举行会晤。

9. 本通知书正文部分共有 4 页, 并附有下列附件:

☒ 引用的对比文件的复印件共 3 份 26 页。

☐



第一次审查意见通知书正文

如说明书所述，本申请涉及一种存储和转发广播服务系统以及接收/存储设备。经审查，现提出如下审查意见。

(一)

1. 权利要求 1 请求保护一种存储和转发广播服务的系统，对比文件 1 (JP 平 9-65288A) 节目发送方法，并具体披露了以下技术特征 (说明书第 3 栏第 6 行至第 6 栏第 24 行及附图 1)：它包括用于发送信息的信息发送机，以及用于接收和存储信息的接收 / 存储设备。

权利要求 1 请求保护的技术方案和对比文件 1 相比区别在于：其接收 / 存储设备管理专用于特定存储信道的存储区，并且按照存储信道发送的信息被存储到所述接收 / 存储设备中的专用存储区。

对比文件 2 (CN1055095A) 公开了一种电视节目接收机—录像机，并披露了上述区别技术特征 (说明书第 8 页第 1 行至该页末及附图 1)，上述技术特征在对比文件 2 中所起的作用是有规律地对存储信道和存储区进行控制，这与其在权利要求 1 请求保护的技术方案中所起的作用相同，即对比文件 2 给出了将上述技术特征应用于对比文件 1 中以进一步解决其技术问题的启示。因而权利要求 1 请求保护的技术方案不具备突出的实质性特点和显著的进步，不符合专利法第二十二条第三款的规定，不具有创造性。

2. 对比文件 2 也公开了权利要求 2 的附加技术特征：为每个存储信道规定专用存储区的容量，并且这些专用存储区与专门分配给所述接收 / 存储设备中的存储信道的存储容量相匹配。上述技术特征在对比文件 2 中所起的作用与其在权利要求 2 的技术方案中所起

的作用相同：合理利用存储区的容量。因而由于其引用的权利要求 1 不具有创造性，权利要求 2 请求保护的技术方案不具备突出的实质性特点和显著的进步，不符合专利法第二十二条第三款的规定，不具有创造性。

3. 对比文件 2 也公开了权利要求 3 的附加技术特征：所述接收 / 存储设备事先装配多个容量固定的专用存储区并且以所述固定容量为单位确定为每个存储信道所规定的存储区的容量。上述技术特征在对比文件 2 中所起的作用与其在权利要求 3 的技术方案中所起的作用相同：管理存储区。因而由于其引用的权利要求 2 不具有创造性，权利要求 3 请求保护的技术方案不具备突出的实质性特点和显著的进步，不符合专利法第二十二条第三款的规定，不具有创造性。

4. 对比文件 1 也公开了权利要求 7 的附加技术特征：至少存储信道标识和描述每个存储信道的服务配置信息的存储信道列表信息或用于接收服务配置信息的信息作为在操作中的存储信道的列表信息进行发送。因而由于其引用的权利要求 2、3 不具备创造性，权利要求 7 请求保护的技术方案不具备突出的实质性特点和显著的进步，不符合专利法第二十二条第三款的规定，不具有创造性。

5. 权利要求 8 请求保护一种接收 / 存储设备，对比文件 1（JP 平 9-65288A）节目发送方法，并具体披露了以下技术特征（说明书第 3 栏第 6 行至第 6 栏第 24 行及附图 1）：它包括用于管理存储信道的存储信道管理部分、用于接收信息的接收机、和存储管理部分，用于存储 / 管理接收到的信息，以及对参考信息名称和存储在接收 / 存储设备中的名称相关地进行管理。

权利要求 8 请求保护的技术方案和对比文件 1 相比区别在于：

它还包括用于对在存储信道接收信息进行预留处理的预留处理部分。

对比文件 3 (JP 平 11-232727A) 公开了一种 AV 设备及其录像方法，并披露了上述区别技术特征（说明书第 3 栏第 22 行至该第 8 栏第 13 行及附图 1—7），上述技术特征在对比文件 3 中所起的作用是简化接收 / 存储设备，这与其在权利要求 8 请求保护的技术方案中所起的作用相同，即对比文件 3 给出了将上述技术特征应用于对比文件 1 中以进一步解决其技术问题的启示。因而权利要求 8 请求保护的技术方案不具备突出的实质性特点和显著的进步，不符合专利法第二十二条第三款的规定，不具有创造性。

6. 对比文件 1 也公开了权利要求 9、10、14、15 的附加技术特征：所述存储信道管理部分包括存储信道控制应用部分，用于管理存储信道列表信息以及利用所述存储信道列表信息产生存储信道列表显示屏；各个存储信道上的信息被显示在存储信道列表显示屏上；可以利用与常规广播服务相同的用户接口选在存储信道；在选择了未安装的存储信道的情况下显示安装显示屏。因而由于其引用的权利要求不具备创造性，权利要求 9、10、14、15 请求保护的技术方案不具备突出的实质性特点和显著的进步，不符合专利法第二十二条第三款的规定，不具有创造性。

（二）

该申请的说明书还存在下述问题：说明书中部分标题不正确，应当将“发明背景”改为“背景技术”，将“附图简述”改为“附图说明”，将“实现本发明的最佳方式”改为“具体实施方式”。因而说明书不符合专利法实施细则第十八条第二款的规定。

基于上述理由, 本申请按照目前的文本是不能够被授权的。申请人应根据上述审查意见在指定的期限内提交新的权利要求书和/或说明书, 修改时应满足专利法第三十三条的规定, 不得超出原说明书和权利要求书记载的范围, 如果申请人不能在本通知书规定的答复期限内克服上述缺陷或表明其具有符合所述规定的充分理由, 本申请将被驳回。申请人应提供修改所涉及的原文复印件, 并将修改之处用彩笔标示清楚。



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LIU, SHEN & ASSOCIATES
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BEIJING 100101, CHINA

ISSUING DATE:

2004. 1. 16.

Application NO.: 01802405-X	Applicant: MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD
Application Date: 2001. 6. 11	Agent: YING MA.
Title: STORE AND FORWARD BROADCAST SERVICE SYSTEM -	

THE FIRST OFFICE ACTION

(PCT application for entry into the national phase)

1. ☒ The applicant filed a request for substantive examination on Year ___ Month ___ Day ___. According to Article 35 paragraph 1 of the Patent Law, the examiner has conducted a substantive examination to the above-mentioned patent application.

☐ According to Article 35 paragraph 2 of the Patent Law, Chinese Patent Office decided, on its own initiative, to conduct a substantive examination to the above-mentioned patent application.

2. ☒ The applicant requested to take

Year ~~00~~ Month 6 Day 13, on which an application is filed with the JP patent office, as the priority date,
Year 01 Month 4 Day 25, on which an application is filed with the JP patent office, as the priority date,
Year ___ Month ___ Day ___, on which an application is filed with the ___ patent office, as the priority date.

3. ☐ The amended document(s) submitted by the applicant is/are not accepted because the said amendment(s) is/are not in conformity with the provision of Article 33 of the Chinese Patent Law.

☐ The Chinese translation of the annexes of the International Preliminary Examination Report.

☐ The Chinese translation of the amendments submitted under Article 19 of PCT.

☐ The amendment(s) submitted under Article 28 or Article 41 of PCT.

☐ The amendment(s) submitted under Rule 51 of The Implementing Regulations of the Patent Law

The concrete reason(s) for not accepting the amendment(S) is/are presented on the text of this Office Action.

4. ☒ The examination has been conducted on the initially filed Chinese translation of the text of the application.

☐ The examination has been conducted on the following text(s):

☐ Specification, page(s) _____, as originally filed

page(s) _____, as the annexes of the International Preliminary Examination Report

page(s) _____, as the amendment(s) submitted under Article 28 or 41 of PCT

page(s) _____, as the amendment(s) submitted under Rule 51 of The Implementing

Regulations of the Patent Law

☐ Claim, _____, as originally filed

_____, as the Chinese translation of the amendment(s) submitted under Article 19 of PCT

_____, as the annexes of the International Preliminary Examination Report

_____, as the amendment(s) under Article 28 or 41 of PCT

_____, as the amendment(s) under Rule 51 of The Implementing Regulations of the Patent

Law

☐ Figure, _____, as originally filed

_____, as the annexes of the International Preliminary Examination Report

- _____, as the amendments under Rule 51 of The Implementing Regulations of the Patent Law
5. ☒ The following reference document(s) is/are cited by this notification: (the reference numeral(s) thereof will be used in the examination procedure hereafter)

NO.	Reference No. and Title	Publishing Date (or the filing date of rivals)
1	JPT 9-65288A	Year 97 month 3
2	CN 1055095A	Year 91 month 10
3	JPT 11-232727A	Year 99 month 8
4		Year month

6. Concluding comments

- ☒ on the specification:
- ☒ The specification is not in conformity with the provision of Rule 18 of the Implementing Regulations of the Patent Law.
- ☐ The figures is not in conformity with the provision of Rule 19 paragraph 3 of the Implementing Regulations of the Patent Law.
- ☐ The specification is not in conformity with the provision of Article 26 paragraph 3 of the Patent Law.
- ☐ The contents of the application are in contrary to Article 5 of the Patent Law and therefore are not patentable

☒ on the claims:

- ☐ Claim(s) _____ belong(s) to non-patentable subject matter as prescribed in Article 25 of the Patent Law
- ☐ Claim(s) _____ do(es) not possess novelty as requested by Article 22 paragraph 2 of the Patent Law.
- ☒ Claim(s) 1-3, 7-10, 14, 15 do(es) not possess inventiveness as requested by Article 22 paragraph 3 of the Patent Law.
- ☐ Claim(s) _____ do(es) not possess the practical applicability as requested by Article 22 paragraph 4 of the Patent Law.
- ☐ Claim(s) _____ do(es) not comply with the provision of Article 26 paragraph 4 of the Patent Law.
- ☐ Claim(s) _____ do(es) not comply with the provision of Article 31 paragraph 1 of the Patent Law.
- ☐ Claim(s) _____ do(es) not comply with the provision of Rule 20 to 23 of the Implementing Regulations of the Patent Law.
- ☐ Claim(s) _____ do(es) not comply with the provision of Article 9 of the Patent Law.
- ☐ Claim(s) _____ do(es) not comply with the provision of Rule 12 paragraph 1 of the Implementing Regulations of the Patent Law.

The detailed analysis for the above concluding comments is/are presented on the text of this Office Action.

7. Based on the above concluding comments, the examiner is of the opinions that:

- ☐ The applicant should amend the application document(s) in accordance with the requirement as specified in the Office Action.
- ☒ The applicant should, in his observation, expound the patentability of the application, amend the defects pointed out in the Office Action; or the application can hardly be approved.
- ☐ The examiner deems that the application lacks substantive features to make it patentable. Therefore, the application will be rejected if no convincing reasons are provided to prove its patentability.

8. The applicant should pay attention to the following matters:

(1) According to Article 37 of the Patent Law, the applicant is required to submit his observations within **four** months upon receipt of this Office Action. If the time limit for making response is not met without any justified reason, the application shall be deemed to have been withdrawn.

(2) The amendment(s) made by the applicant must meet the provision of Article 33 of the Patent Law. The amended text should be in duplicate, its format should conform to the related confinement in the Guidance for Examination.

(3) The observation and the amended document(s) must be mailed or delivered to the Receiving Section of the Chinese Patent Office. No legal effect shall apply for any document(s) that not mailed to or reached the Receiving Section.

(4) Without being invited, the applicant and/or the agent should not go to the Chinese Patent Office to interview an examiner.

9. The text of this Office Action contains 4 page(s), and has the following attachment(s):

☒ 3 copies of the cited references, total 26 pages.

Examination Section No. _____ Examiner _____ Seal of Examination Dept. For business only (if the Office Action wasn't stamped by the specified seal, it has no legal effect)

TEXT OF THE FIRST OFFICE ACTION

As stated in the specification, the present application relates to a store and forward broadcast service system and a receiving/storage apparatus. After the examination, opinions are now provided as follows.

(I)

1. Claim 1 claims to protect a store and forward broadcast service system. However, reference 1 (JP 平 9-65288A) discloses a program forwarding method and records in detail the following technical feature (see column 3, line 6 to column 6, line 24 of the specification, and Fig. 1): it comprises an information transmitter for transmitting information and receiving/storage apparatus for receiving and storing information.

The claimed technical solution of claim 1 differs from reference 1 in the technical feature that said receiving/storage apparatus manages storage regions exclusively available to a specific storage channel and information transmitted as the storage channel is stored into the exclusive storage regions in said receiving/storage apparatus.

Reference 2 (CN1055095A) discloses a television receiver-recorder and records the above distinctive technical feature (see page 8 of the specification, and Fig. 1). The above technical feature plays a role of regularly controlling the storage regions and the storage channel in reference 2, which is identical to the role it plays in the claimed technical solution of claim 1, i.e. reference 2 offers the inspiration of applying the above technical feature to reference 1 to further resolve the technical problem. Thus, the claimed technical solution of claim 1 does not possess any prominent substantive features or represent any notable progress. So claim 1 does not comply with the provision of Article 22, paragraph 3 of the Patent Law of China, nor does it possess inventiveness.

2. Reference 2 discloses the additional technical feature of claim 2: the capacity of the exclusive storage regions is specified per storage channel and the exclusive storage regions matching the storage capacity specified for the storage channel is exclusively assigned to the storage channel in said receiving/storage apparatus. The above technical feature plays the same role in reference 2 as in the technical solution of claim 2, i.e. making rational use of the capacity of the storage regions. Thus, when claim 1 which claim 2 refers to does not possess inventiveness, the claimed technical solution of claim 2 does not possess any prominent substantive features or represent any notable progress. So claim 2 does not comply with the provision of Article 22, paragraph 3 of the Patent Law of China, nor does it possess inventiveness.

3. Reference 2 also discloses the additional technical feature of claim 3: said

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receiving/storage apparatus mounts a plurality of exclusive storage regions of a fixed capacity in advance and defines the capacity of the storage regions to be specified per storage channel in units of said fixed capacity. The above technical feature plays the same role in reference 2 as in the technical solution of claim 3, i.e. managing the storage regions. Thus, when claim 2 which claim 3 refers to does not possess inventiveness, the claimed technical solution of claim 3 does not possess any prominent substantive features or represent any notable progress. So claim 3 does not comply with the provision of Article 22, paragraph 3 of the Patent Law of China, nor does it possess inventiveness.

4. Reference 1 also discloses the additional technical feature of claim 7: at least storage channel identity and storage channel list information describing service configuration information per storage channel or information for receiving service configuration information is transmitted as list information of the storage channel under operation. Thus, when claims 2, 3 either of which claim 7 refers to do not possess inventiveness, the claimed technical solution of claim 7 does not possess any prominent substantive features or represent any notable progress. So claim 7 does not comply with the provision of Article 22, paragraph 3 of the Patent Law of China, nor does it possess inventiveness.

5. Claim 8 claims to protect a receiving/storage apparatus. However, reference 1 (JP 平 9-65288A) discloses a program forwarding method and records in detail the following technical feature (see column 3, line 6 to column 6, line 24 of the specification, and Fig. 1): it has a storage channel management section for managing storage channels, a receiver for receiving information, and a storage management section for storing/managing the received information and managing the names used for referencing information and the names stored in the receiving/storage apparatus in association.

The claimed technical solution of claim 8 differs from reference 1 in the technical feature that it further has a reservation processing section for making reservation processing to receive information on storage channels.

Reference 3 (JP 平 11-232727A) discloses an AV equipment and a video-recording method of the AV equipment and records the above distinctive technical feature (see column 3, line 22 to column 8, line 13 of the specification, and Figs. 1-7). The above technical feature plays a role of simplifying the receiving/storage apparatus in reference 3, which is identical to the role it plays in the claimed technical solution of claim 8, i.e. reference 3 offers the inspiration of applying the above technical feature to reference 1 to further resolve the technical problem. Thus, the claimed technical solution of claim 8 does not possess any prominent substantive features or represent any notable progress. So claim 8 does not comply with the provision of Article 22, paragraph 3 of the Patent Law of China, nor does it possess inventiveness.

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6. Reference 1 also discloses the additional technical features of claims 9, 10, 14 and 15: said storage channel management section comprises a storage channel control application section for managing storage channel list information as well as using said storage channel list information to generate a storage channel list screen; information on individual storage channels is displayed on the storage channel list screen; storage channels can be selected using the same user interface as that for an ordinary broadcast service; and the installation screen is displayed in case an uninstalled storage channel is selected. Thus, the claimed technical solutions of claims 9, 10, 14 and 15 do not possess any prominent substantive features or represent any notable progress. So claims 9, 10, 14 and 15 do not comply with the provision of Article 22, paragraph 3 of the Patent Law of China, nor do they possess inventiveness.

(II)

The specification has the following problem: a heading in the specification is not correct. "Background of the Invention" shall be amended to "Background Art". Chinese wording problems are pointed out, details omitted. So the specification does not comply with the provision of Rule 18, paragraph 2 of the Implementing Regulations of the Patent Law of China.

Based on the reasons mentioned above, the present application shall not be granted a patent right under the current text. The applicant shall submit the new claims and/or the specification, which have been amended in accordance with the above examination opinions, within the specified time limit. Any amendment shall not go beyond the scope of the disclosure contained in the original specification and claims so as to comply with the provision of Article 33 of the Patent Law of China. If the applicant fails to, within the time limit for making response specified in the office action, remove the above defects or state sufficient reasons indicating the present application does comply with said provisions, the present application will be rejected. The applicant shall provide a copy of the original text involving the amended part, and mark clearly the amendments with a colored pen.

Examiner: Hu Jing

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